



Reprinted
February 21, 2007

SENATE BILL No. 328

DIGEST OF SB 328 (Updated February 20, 2007 2:46 pm - DI 106)

Citations Affected: IC 10-13; IC 12-19; IC 31-9; IC 31-19; IC 31-25; IC 31-27; IC 31-33; IC 31-34; noncode.

Synopsis: Department of child services. Requires the director of the department of child services (department) to appoint a county director for each county office of family and children. (Current law requires the director of the division of family resources to make the appointments in consultation with the director of the department.) Specifies that national criminal history checks shall be conducted in compliance with federal law to determine whether certain individuals who supervise children have been convicted of specified offenses. Modifies the definition of "custodian", for purposes of statutes regarding children in need of services (CHINS), to include a person who is a member of the household of a child's noncustodial parent. Requires criminal history checks in pre-adoption placements, even if the child is: (1) not a ward of the court or the department; or (2) placed with certain relatives. Makes certain other changes. Replaces county early intervention plan teams with regional services councils. Establishes the duties, membership, and procedures of the regional services councils. Repeals county early intervention plan teams for delinquent children. Provides that the department: (1) shall establish at least three citizen review panels; and (2) may designate existing entities as citizen review panels if the entities meet certain conditions. Requires a citizen review panel to: (1) consist of volunteer members who broadly represent the

(Continued next page)

Effective: Upon passage; July 1, 2007.

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January 16, 2007, read first time and referred to Committee on Judiciary.
February 15, 2007, amended, reported favorably — Do Pass.
February 20, 2007, read second time, amended, ordered engrossed.

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community; (2) examine policies and procedures of child welfare agencies and specific cases when appropriate; (3) meet at least one time every three months; and (4) prepare an annual report. Requires the department to submit a response to a citizen review panel's report not more than six months after the date the department receives the report. Prohibits a member of a citizen review panel from disclosing identifying information about a specific child services case, child or member of the child's family who is the subject of a child protective services investigation, or any other person identified in confidential materials. Provides that the department may remove a member who discloses identifying information from a citizen review panel. Requires child welfare agencies to cooperate and work with citizen review panels. Allows citizen review panels access to reports and other materials concerning child protective services. Provides that a petition alleging that a child taken into custody is a CHINS shall be filed before the detention hearing. Requires the initial hearing on the CHINS petition to be held at the same time as the detention hearing. Establishes a child protection index, and permits a person or agency to obtain certain information contained in the index relating to an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children. Specifies that national criminal history checks shall be conducted in compliance with federal law to determine whether certain individuals who supervise children have been convicted of specified offenses. Requires a court to consult with a CHINS regarding a proposed permanency plan for the child. Provides that if the child is at least 16 years of age and the proposed permanency plan for the child provides for the transition from foster care to independent living, the court shall notify the child of the permanency hearing and provide the child an opportunity to be heard. Repeals provisions: (1) requiring the department to offer certain services to a family or a child following an investigation of a report of child abuse or neglect; and (2) authorizing voluntary services referral agreements between the department and persons accused of child abuse or neglect. Makes conforming amendments.

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February 21, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 328

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-3-39, AS AMENDED BY P.L.234-2005,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 39. (a) The department is designated as the
4 authorized agency to receive requests for, process, and disseminate the
5 results of national criminal history background checks that comply with
6 this section and 42 U.S.C. 5119a.
7 (b) A qualified entity may contact the department to request a
8 national criminal history background check on any of the following
9 persons:
10 (1) A person who seeks to be or is employed with the qualified
11 entity. A request under this subdivision must be made not later
12 than three (3) months after the person is initially employed by the
13 qualified entity.
14 (2) A person who seeks to volunteer or is a volunteer with the
15 qualified entity. A request under this subdivision must be made

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not later than three (3) months after the person initially volunteers with the qualified entity.

(3) A person for whom a national criminal history background check is required under any law relating to the licensing of a home, center, or other facility for purposes of day care or residential care of children.

(4) A person for whom a national criminal history background check is required for purposes of placement of a child in a foster family home, a prospective adoptive home, or the home of a relative or other caretaker, or for purposes of a report concerning an adoption as required by IC 31-19-8.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check. ~~for convictions described in IC 20-26-5-11.~~ The department shall respond to the request in conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that ~~(1)~~ is not a school corporation or a special education cooperative, or ~~that (2)~~ is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer. After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the ~~applicant~~ **person who is the subject of a request** has been convicted of:

(1) an offense described in IC 20-26-5-11;

(2) in the case of a foster family home, an offense described in IC 31-27-4-13(a);

(3) in the case of a prospective adoptive home, an offense described in IC 31-19-11-1(c);

(4) any other felony; or

(5) any misdemeanor;

and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

(1) is a school corporation or a special education cooperative; and

(2) seeks a national criminal history background check to

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determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency.

SECTION 2. IC 12-19-1-2, AS AMENDED BY P.L.234-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The ~~director of the division, in consultation with the~~ director of the department of child services shall appoint a county director in each county.

(b) The director **of the department of child services** shall appoint each county director:

- (1) solely on the basis of merit; and
- (2) from eligible lists established by the state personnel department.

(c) Each county director must be a citizen of the United States.

SECTION 3. IC 31-9-2-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16.5. "Child care provider", for purposes of ~~IC 31-33-17~~, **IC 31-33-26**, has the meaning set forth in ~~IC 31-33-17-0.5~~. **IC 31-33-26-1.**

SECTION 4. IC 31-9-2-19.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19.3. "Child welfare agency", for purposes of **IC 31-25-2-20**, means:

- (1) the department of child services; and
- (2) a person (as defined in IC 24-4-14-5) that, directly or indirectly, provides:

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(A) services to a child or family of a child, for which payment is made, in whole or in part, by the department of child services or a local office of the department of child services;

(B) services to:

(i) a child who is; or

(ii) a family with;

a child at imminent risk of placement (as defined in IC 31-26-5-1) who is referred by the department of child services or a local office of the department of child services to the person for family support or family preservation services; or

(C) assistance to or works in cooperation with the department of child services in the investigations of allegations of possible child abuse or neglect in accordance with IC 31-33.

SECTION 5. IC 31-9-2-22.5, AS AMENDED BY P.L.145-2006, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22.5. "Conduct a criminal history check", for purposes of IC 31-19, IC 31-26, IC 31-27, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:

(1) request the state police department to:

(A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is **at least fourteen**

(14) years of age and who is:

(i) for purposes of IC 31-19, IC 31-26, IC 31-33, IC 31-34, **and IC 31-37, and ~~IC 31-38-2-13.5~~**; currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; or

(ii) for purposes of ~~IC 31-27~~, an applicant; or if the applicant is an organization, the director or a manager of a facility where children will be placed; an employee; or a volunteer who has or will have direct contact, on a regular and continuing basis, with children who are under the direct supervision of a person required to be licensed under ~~IC 31-27~~; and

(ii) for purposes of IC 31-27-4-5, a resident of the applicant's household who is at least fourteen (14) years of age; and

(B) conduct a:

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(i) ~~national~~ fingerprint based criminal history background check **of both national and state records data bases concerning a person who is at least eighteen (18) years of age** in accordance with **IC 10-13-3-27 and IC 10-13-3-39**; or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person **who is at least eighteen (18) years of age** described in clause (A) as provided by IC 10-13-3-27.5; ~~and~~

(2) collect each substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a person described in subdivision (1)(A) resided **within the previous five (5) years; and**

(3) **request information concerning any substantiated report of child abuse or neglect relating to a person described in subdivision (1)(A) that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible pursuant to 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.**

SECTION 6. IC 31-9-2-26, AS AMENDED BY P.L.145-2006, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. "County office", for purposes of ~~IC 31-25 through IC 31-40~~ **IC 31** and the juvenile law, refers to a county office of ~~family and children~~ **the department of child services established by IC 31-25-1-1.**

SECTION 7. IC 31-9-2-31, AS AMENDED BY P.L.146-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) "Custodian", for purposes of the juvenile law, means a person with whom a child resides.

(b) "Custodian", for purposes of IC 31-34-1, includes any person who is:

(1) a license applicant or licensee of:

(A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27;

(B) a child care center that is required to be licensed or is licensed under IC 12-17.2-4; or

(C) a child care home that is required to be licensed or is licensed under IC 12-17.2-5; ~~or~~

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(2) a person who is responsible for care, supervision, or welfare of children while providing services as an employee or volunteer at:

(A) a home, center, or facility described in subdivision (1); or

(B) a school, as defined in IC 31-9-2-113.5; or

(3) a member of the household of the child's noncustodial parent.

SECTION 8. IC 31-9-2-44.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 44.8. "Family preservation services", for purposes of IC 31-34-24, means short term, highly intensive services designed to protect, treat, and support the following:**

(1) A family with a child at risk of placement by enabling the family to remain intact and care for the child at home.

(2) A family that adopts or plans to adopt an abused or neglected child who is at risk of placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

SECTION 9. IC 31-9-2-58.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2.**

SECTION 10. IC 31-9-2-92.5, AS AMENDED BY P.L.145-2006, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 92.5. (a) "Plan", for purposes of IC 31-34-24, has the meaning set forth in IC 31-34-24-1.**

~~(b) "Plan", for purposes of IC 31-37-24, has the meaning set forth in IC 31-37-24-1.~~

~~(c)~~ **(b) "Plan", for purposes of IC 31-25-4, has the meaning set forth in IC 31-25-4-5.**

SECTION 11. IC 31-9-2-103.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 103.5. "Regional services council", for purposes of IC 31-34-24, has the meaning set forth in IC 31-34-24-2.**

SECTION 12. IC 31-9-2-106, AS AMENDED BY P.L.145-2006, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 106. (a) "Registry", for purposes of IC 31-19-5, refers to the putative father registry established by IC 31-19-5-2.**

~~(b) "Registry", for purposes of IC 31-33, refers to the child abuse registry established by the department under IC 31-33-17.~~

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SECTION 13. IC 31-9-2-116.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 116.5. "Service region", for purposes of IC 31-34-24, has the meaning set forth in IC 31-34-24-2.5.**

SECTION 14. IC 31-9-2-129 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 129. (a) "Team", for purposes of IC 31-33-3, refers to a community child protection team appointed under IC 31-33-3.

(b) "Team", for purposes of ~~IC 31-34-24~~, has the meaning set forth in ~~IC 31-34-24-2~~.

(c) "Team", for purposes of ~~IC 31-37-24~~, has the meaning set forth in ~~IC 31-37-24-2~~.

SECTION 15. IC 31-19-7-1, AS AMENDED BY P.L.145-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~Except:~~

(1) for:

(A) a child sought to be adopted by a stepparent;

(B) a child sought to be adopted by a grandparent, an aunt, or an uncle; or

(C) a child received by the petitioner for adoption from an agency outside Indiana with the written consent of the department; or

(2) if the court in its discretion, after a hearing held upon proper notice, has waived the requirement for prior written approval;

A child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or county office of family and children approved for that purpose by the department.

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child, ~~who is under the care and supervision of:~~

(1) ~~the juvenile court; or~~

(2) ~~the department of child services;~~

a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined

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in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or county office of family and children provides written approval for the placement.

SECTION 16. IC 31-25-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20. (a) The department shall**

establish at least three (3) citizen review panels in accordance with the requirements of the federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106a. The department may, by agreement with an existing entity, designate the existing entity as a citizen review panel under this subsection if the existing entity has the capacity to satisfy the responsibilities described in subsection (c) and the department ensures that the existing entity will satisfy the responsibilities described in subsection (c).

(b) A citizen review panel consists of volunteer members who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

(c) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

(1) the policies and procedures of child welfare agencies;

(2) if appropriate, specific child protective services cases; and

(3) other criteria the citizen review panel considers important to ensure the protection of children.

(d) Each citizen review panel shall:

(1) meet at least one (1) time every three (3) months; and

(2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(e) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (d), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(f) A child welfare agency shall make all reports and other

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1 materials in the child welfare agency's possession available to a
 2 citizen review panel established under this section, including any
 3 reports and materials that the child welfare agency has received
 4 from other agencies.

5 (g) A member of a citizen review panel may not disclose to a
 6 person or government official any identifying information that is
 7 provided to the citizen review panel about:

- 8 (1) a specific child protective services case or child welfare
 9 agency case;
- 10 (2) a child or member of the child's family that is the subject
 11 of a child protective services investigation; or
- 12 (3) any other individuals identified in confidential reports,
 13 documents, or other materials.

14 (h) If a member of a citizen review panel violates subsection (g),
 15 the department may remove the member from the citizen review
 16 panel.

17 (i) A child welfare agency shall cooperate and work with each
 18 citizen review panel established under this section.

19 SECTION 17. IC 31-27-3-3, AS ADDED BY P.L.145-2006,
 20 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) An applicant must apply for
 22 a child caring institution license on forms provided by the department.

23 (b) An applicant must submit the required information as part of the
 24 application.

25 (c) The applicant must submit with the application a statement
 26 attesting the following:

- 27 (1) That the applicant has not been convicted of:
 28 (A) a felony; or
 29 (B) a misdemeanor relating to the health and safety of
 30 children.
- 31 (2) That the applicant has not been charged with:
 32 (A) a felony; or
 33 (B) a misdemeanor relating to the health and safety of
 34 children;
 35 during the pendency of the application.

36 (d) **The department, on behalf of an applicant, or, at the**
 37 **discretion of the department,** an applicant, shall

38 ~~(†)~~ conduct a criminal history check of **the following:**

39 ~~(A)~~ (1) Each individual who is an applicant. ~~and~~

40 ~~(B)~~ (2) The director or manager of a facility where children will
 41 be placed. ~~and~~

42 (2) submit to the department the result of each criminal history

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check conducted under this subsection.

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under subsection (d), the applicant shall: ~~do the following:~~

(1) Conduct a criminal history check of the applicant's:

(A) employees; and

(B) volunteers;

who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.

(2) (1) maintain records of each the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

(f) An applicant is required to conduct a criminal history check required under subsection (e)(1) only one (1) time.

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision

(1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

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1 (h) A criminal history check required under subsection (d)(2) or
 2 (d)(3) must be completed on or before the date on which the subject
 3 of the check is employed or assigned as a volunteer. However, a
 4 national fingerprint based criminal history background check
 5 defined in IC 31-9-2-22.5(1)(B) and required under subsection
 6 (d)(3) must be completed not later than the conclusion of the first
 7 ninety (90) days of employment in or assignment of a volunteer in
 8 a position described in subsection (d)(3). If a person described in
 9 this subsection has been the subject of a criminal history check (as
 10 described in IC 31-9-2-22.5) that was conducted not more than one
 11 (1) year before the date the license application is submitted to the
 12 department, a new criminal history check of that person is not
 13 required.

14 (g) (i) An applicant or licensee may provisionally employ an
 15 individual or assign a volunteer for whom a criminal history check
 16 is required under subsection (d)(3) during the period after the
 17 process of requesting national fingerprint based criminal history
 18 background check information has been initiated by or on behalf
 19 of the applicant or licensee but before the determination is
 20 obtained by or communicated to the applicant or licensee. If the
 21 determination is not received by not later than the ninety (90) days
 22 after the effective date of hire or volunteer assignment, the
 23 employee or volunteer relationship must be terminated or
 24 suspended until a determination is received. An employee or
 25 volunteer whose determination has not yet been received may not
 26 have direct contact with a child who is or will be placed at a facility
 27 operated by the applicant or licensee unless the direct contact
 28 occurs only in the presence of a volunteer or employee of the
 29 applicant or licensee who has been the subject of a completed and
 30 approved criminal history check. In determining whether to
 31 provisionally hire or assign as a volunteer an individual under
 32 subsection (d)(3), the applicant or licensee shall consider the
 33 following:

- 34 (1) The training time required by an employee or a volunteer.
- 35 (2) The safety and security of the children under the
- 36 supervision of the applicant or licensee.
- 37 (3) The safety and security of the other staff and volunteers
- 38 working under the supervision of the applicant or licensee.
- 39 (4) The staffing concerns of the applicant or licensee.
- 40 (5) Any other factor relating to the safety and security of the
- 41 applicant or licensee's operations.

42 (j) The department shall, at the applicant's request, inform the

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applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history record information report concerning the person.

SECTION 18. IC 31-27-3-5, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, ~~an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant or the director or manager of a facility where children will be placed by the applicant, of:~~

(A) a felony; ~~or~~

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal); or

(D) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

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(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a)(2), if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) The department may adopt rules to implement this section.

SECTION 19. IC 31-27-3-18, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

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(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the child caring institution.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the child caring institution.
- (5) The parent, guardian, or custodian of the child at the child caring institution.

(6) A citizen review panel established under IC 31-25-2-20.

SECTION 20. IC 31-27-3-31, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

- (A) the licensee;
- (B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or
- (C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee or the director or manager of a facility where children will be placed by the licensee,~~ of any of the following:

- (A) A felony.
- (B) A misdemeanor related to the health or safety of a child.
- (C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).**
- (D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.**

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

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(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 21. IC 31-27-4-5, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) An applicant must apply for a foster family home license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

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- 1 (A) a felony; or
 2 (B) a misdemeanor relating to the health and safety of
 3 children.
 4 (2) That the applicant has not been charged with:
 5 (A) a felony; or
 6 (B) a misdemeanor relating to the health and safety of
 7 children;
 8 during the pendency of the application.
 9 (d) An applicant shall submit the necessary information, forms, or
 10 consents for the department to conduct a criminal history check for
 11 each individual who is an applicant.
 12 (e) **The department, or at the discretion of the department,** an
 13 applicant, shall ~~do the following~~:
 14 (†) conduct a criminal history check of:
 15 ~~(A)~~ (1) the applicant's
 16 (†) employees and
 17 (†) volunteers
 18 who have or will have direct contact, on a regular and continuing
 19 basis, with children who are or will be under the direct
 20 supervision of the applicant; and
 21 ~~(B)~~ (2) all household members who are at least fourteen (14)
 22 years of age.
 23 ~~(2)~~ (f) **If the applicant conducts criminal history checks under**
 24 **subsection (e), the applicant shall maintain records of each criminal**
 25 **history check; the information received concerning each individual**
 26 **subject of a criminal history check.**
 27 (†) (g) **If the department conducts a criminal history check on**
 28 **behalf of an applicant under subsection (e), the department shall:**
 29 (1) **make a determination whether the subject of a national**
 30 **fingerprint based criminal history check has a record of a**
 31 **conviction for:**
 32 (A) a felony; or
 33 (B) a misdemeanor relating to the health and safety of a
 34 child;
 35 (2) **notify the applicant of the determination under subdivision**
 36 **(1) without identifying a specific offense or other identifying**
 37 **information concerning a conviction contained in the national**
 38 **criminal history record information;**
 39 (3) **submit to the applicant a copy of any state limited criminal**
 40 **history report that the department receives on behalf of any**
 41 **person described in subsection (d); and**
 42 (4) **maintain a record of every report and all information the**

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department receives concerning a person described in subsection (e).

(h) Except as provided in subsection (i), a criminal history check described in subsection (e) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(i) With the exception of a national fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1), a criminal history check concerning a person described in subsection (e) must be completed on or before the date on which the subject of the check is first employed or assigned as a volunteer in a position described in subsection (e)(1) or first becomes a resident of the applicant's household as described in subsection (e)(2). A national fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer. However, if a person described in this subsection has been the subject of a criminal history check that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

An applicant is required to conduct a criminal history check required under subsection (e)(1) only one (1) time.

(g) (j) An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (e)(3) during the period after the process of requesting national fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to

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provisionally hire or assign as a volunteer an individual under subsection (e)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant or licensee's operations.

(k) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(l) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history record information report concerning the person.

SECTION 22. IC 31-27-4-6, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

- (1) A determination by the department of child abuse or neglect by:

- (A) the applicant;
- (B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or
- (C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or
- (D) a person residing in the applicant's residence who is at least eighteen (18) years of age.

- (2) A criminal conviction of the applicant, an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact,

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on a regular and continuous basis, with children who are under the direct supervision of the applicant; of any of the following:

- (A) a felony; ~~or~~
- (B) a misdemeanor related to the health and safety of a child;
- (C) a misdemeanor for operating a child care center without a license under IC 12-17.2-5-35; or**
- (D) a misdemeanor for operating a foster family home without a license under section 36 of this chapter.**

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a:

- (A) child care home without a license under IC 12-17.2-5; or**
- (B) foster family home without a license under this chapter.**

(b) An application for a license may also be denied if an adult who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

- (1) A felony described in IC 31-27-4-13(a); or
- (2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying conviction.
- (2) The severity, nature, and circumstances of the offense.
- (3) Evidence of rehabilitation.
- (4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a)(2), if:

- (1) a license application ~~is~~ **could be** denied due to a criminal conviction of an employee, ~~or~~ a volunteer, **or person residing in the residence** of the applicant; and
- (2) the department determines that the employee or volunteer has

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1 been dismissed by the applicant **or that the person residing in**
 2 **the residence no longer resides there;**
 3 the criminal conviction of the former employee, ~~or~~ former volunteer,
 4 **or former household resident** does not ~~require~~ **constitute a sufficient**
 5 **basis for the** denial of a license application.

6 **(e) The department may adopt rules to implement this section.**

7 SECTION 23. IC 31-27-4-21, AS ADDED BY P.L.145-2006,
 8 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) A licensee shall keep
 10 records required by the department regarding each child in the control
 11 and care of the licensee and shall report to the department upon request
 12 the facts the department requires with reference to children.

13 (b) The department shall keep records regarding children and facts
 14 learned about children and the children's parents or relatives
 15 confidential.

16 (c) The following have access to records regarding children and
 17 facts learned about children:

- 18 (1) A state agency involved in the licensing of the foster family
- 19 home.
- 20 (2) A legally mandated child protection agency.
- 21 (3) A law enforcement agency.
- 22 (4) An agency having the legal responsibility to care for a child
- 23 placed at the foster family home.
- 24 (5) The parent, guardian, or custodian of the child at the foster
- 25 family home.

26 **(6) A citizen review panel established under IC 31-25-2-20.**

27 SECTION 24. IC 31-27-4-32, AS ADDED BY P.L.145-2006,
 28 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2007]: Sec. 32. **(a)** The following constitute
 30 sufficient grounds for revocation of a license:

- 31 (1) A determination by the department of child abuse or neglect
- 32 by:
 - 33 (A) the licensee;
 - 34 (B) an employee of the licensee who has direct contact, on a
 - 35 regular and continuous basis, with children who are under the
 - 36 direct supervision of the licensee; ~~or~~
 - 37 (C) a volunteer of the licensee who has direct contact, on a
 - 38 regular and continuous basis, with children who are under the
 - 39 direct supervision of the licensee; **or**
 - 40 **(D) a person at least eighteen (18) years of age who is**
 - 41 **residing in the home of the licensee.**
- 42 (2) A criminal conviction of the licensee, ~~an employee of the~~

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licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a:

(A) child care home without a license under IC 12-17.2-5; or

(B) foster family home without a license under this chapter.

(b) A license may also be revoked if an adult who resides in the residence of the licensee or an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former

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1 **volunteer does not constitute a sufficient basis for the revocation**
 2 **of a license.**

3 **(e) The department may adopt rules to implement this section.**

4 SECTION 25. IC 31-27-5-4, AS ADDED BY P.L.145-2006,
 5 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) An applicant must apply for
 7 a group home license on forms provided by the department.

8 (b) An applicant must submit the required information as part of the
 9 application.

10 (c) An applicant must submit with the application a statement
 11 attesting the following:

12 (1) That the applicant has not been convicted of:

13 (A) a felony; or

14 (B) a misdemeanor relating to the health and safety of
 15 children.

16 (2) That the applicant has not been charged with:

17 (A) a felony; or

18 (B) a misdemeanor relating to the health and safety of
 19 children;

20 during the pendency of the application.

21 **(d) The department on behalf of an applicant, or, at the**
 22 **discretion of the department,** an applicant, shall ~~(1)~~ conduct a
 23 criminal history check of **the following:**

24 ~~(A)~~ (1) Each individual who is an applicant. ~~and~~

25 ~~(B)~~ (2) The director or manager of a facility where children will
 26 be placed. ~~and~~

27 (2) submit to the department the result of each criminal history
 28 check conducted under this subsection.

29 **(3) An employee or a volunteer of the applicant who has or**
 30 **will have direct contact on a regular and continuing basis with**
 31 **a child who is or will be placed in a facility operated by the**
 32 **applicant.**

33 ~~(e) An~~ **If the applicant conducts a criminal history check under**
 34 **subsection (d), the applicant shall: do the following:**

35 ~~(1)~~ Conduct a criminal history check of the applicant's:

36 ~~(A)~~ employees; and

37 ~~(B)~~ volunteers;

38 who have or will have direct contact, on a regular and continuing
 39 basis, with children who are or will be under the direct
 40 supervision of the applicant.

41 ~~(2)~~ (1) maintain records of each criminal history check: **the**
 42 **information it receives concerning each individual who is the**

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1 subject of a criminal history check; and

2 (2) submit to the department a copy of the information the
3 applicant receives concerning each person described in
4 subsection (d)(1) through (d)(3).

5 (f) If the department conducts a criminal history check on
6 behalf of an applicant under subsection (d), the department shall:

7 (1) determine whether the subject of a national fingerprint
8 based criminal history check has a record of a conviction for:

9 (A) a felony; or

10 (B) a misdemeanor relating to the health and safety of a
11 child;

12 (2) notify the applicant of the determination under subdivision
13 (1) without identifying a specific offense or other identifying
14 information concerning a conviction contained in the national
15 criminal history record information;

16 (3) submit to the applicant a copy of any state limited criminal
17 history report that the department receives on behalf of any
18 person described in subsection (d); and

19 (4) maintain a record of every report and all information it
20 receives concerning a person described in subsection (d).

21 (g) Except as provided in subsection (h), a criminal history
22 check described in subsection (d) is required only at the time an
23 application for a new license or the renewal of an existing license
24 is submitted.

25 (h) A criminal history check required under subdivision (d)(2)
26 or (d)(3) must be completed on or before the date on which the
27 subject of the check is employed or assigned as a volunteer in a
28 position described in subsection (d)(3). However, a national
29 fingerprint based criminal history background check defined in
30 IC 31-9-2-22.5(1)(B) and required under subsection (e) must be
31 completed not later than the conclusion of the first ninety (90) days
32 of employment in or assignment of a volunteer to a position
33 described in subsection (e). If a person described in this subsection
34 has been the subject of a criminal history check (as described in
35 IC 31-9-2-22.5) that was conducted not more than one (1) year
36 before the date the license application is submitted to the
37 department, a new criminal history check of that person is not
38 required.

39 (i) An applicant or licensee may provisionally employ an
40 individual or assign a volunteer for whom a criminal history check
41 is required under subsection (d)(3) during the period after the
42 process of requesting national fingerprint based criminal history

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background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant or licensee's operations.

(j) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history record information report concerning the person.

(f) An applicant is required to conduct a criminal history check required under subsection (c)(1) only one (1) time for each employee or volunteer.

(g) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and

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1 if the department has identified the person as an alleged perpetrator of
 2 abuse or neglect. The department may not provide to the applicant any
 3 details or personally identifying information contained in any child
 4 protective investigation report.

5 SECTION 26. IC 31-27-5-6, AS ADDED BY P.L.145-2006,
 6 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute
 8 sufficient grounds for a denial of a license application:

9 (1) A determination by the department of child abuse or neglect
 10 by:

11 (A) the applicant;

12 (B) an employee of the applicant who has direct contact, on a
 13 regular and continuous basis, with children who are under the
 14 direct supervision of the applicant; or

15 (C) a volunteer of the applicant who has direct contact, on a
 16 regular and continuous basis, with children who are under the
 17 direct supervision of the applicant.

18 (2) A criminal conviction of the applicant, ~~an employee of the~~
 19 ~~applicant who has direct contact, on a regular and continuous~~
 20 ~~basis, with children who are under the direct supervision of the~~
 21 ~~applicant; or a volunteer of the applicant who has direct contact,~~
 22 ~~on a regular and continuous basis, with children who are under~~
 23 ~~the direct supervision of the applicant; or the director or~~
 24 ~~manager of a facility where children will be placed by the~~
 25 ~~applicant~~ of any of the following:

26 (A) A felony.

27 (B) A misdemeanor related to the health and safety of a child.

28 **(C) A misdemeanor for operating a child caring institution,**
 29 **foster family home, group home, or child placing agency**
 30 **without a license under this article (or IC 12-17.4 before its**
 31 **repeal).**

32 **(D) A misdemeanor for operating a child care center or**
 33 **child care home without a license under IC 12-17.2.**

34 (3) A determination by the department that the applicant made
 35 false statements in the applicant's application for licensure.

36 (4) A determination by the department that the applicant made
 37 false statements in the records required by the department.

38 **(5) A determination by the department that the applicant**
 39 **previously operated a home or facility without a license**
 40 **required under any applicable provision of this article (or**
 41 **IC 12-17.4 before its repeal) or IC 12-17.2.**

42 (b) An application for a license may also be denied if an

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employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a)(2), if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) **The department may adopt rules to implement this section.**

SECTION 27. IC 31-27-5-18, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the group home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the group home.

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(5) The parent, guardian, or custodian of the child at the group home.

(6) A citizen review panel established under IC 31-25-2-20.

SECTION 28. IC 31-27-5-31, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or the director or manager of a facility where children will be placed by the licensee~~ for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous

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basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 29. IC 31-27-6-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An applicant must apply for a child placing agency license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant ~~shall~~ **must** submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

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(d) **The department on behalf of an applicant, or, at the discretion of the department,** an applicant, shall ~~(1)~~ conduct a criminal history check of **the following:**

~~(A)~~ (1) Each individual who is an applicant. ~~and~~

~~(B)~~ (2) The director or manager of a facility where children will be placed. ~~and~~

(2) submit to the department the result of each criminal history check conducted under this subsection.

(3) **An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.**

~~(e) An~~ **If the applicant conducts a criminal history check under subsection (d), the applicant shall: do the following:**

~~(1)~~ Conduct a criminal history check of the applicant's:

~~(A)~~ employees; and

~~(B)~~ volunteers;

who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.

(2) (1) maintain records of ~~each the information it receives concerning each individual who is the subject of a criminal history check; and~~

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

~~(f) An~~ applicant is required to conduct a criminal history check required under subsection ~~(e)(1)~~ only one ~~(1)~~ time for each employee or volunteer.

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision

(1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any

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1 person described in subsection (d); and

2 (4) maintain a record of every report and all information the
3 department receives concerning a person described in
4 subsection (d).

5 (g) Except as provided in subsection (h), a criminal history
6 check described in subsection (d) is required only at the time an
7 application for a new license or the renewal of an existing license
8 is submitted.

9 (h) A criminal history check required under subsection (d)(2) or
10 (d)(3) must be completed on or before the date on which the subject
11 of the check is employed or assigned as a volunteer in a position
12 described in subsection (d)(3). However, if a person described in
13 this subsection has been the subject of a criminal history check (as
14 described in IC 31-9-2-22.5) that was conducted not more than one
15 (1) year before the date the license application is submitted to the
16 department, a new criminal history check of that person is not
17 required.

18 (g) (i) The department shall, at the applicant's request, inform the
19 applicant whether the department has or does not have a record of the
20 person who is the subject of a criminal history background check and
21 if the department has identified the person as an alleged perpetrator of
22 abuse or neglect. The department may not provide to the applicant any
23 details or personally identifying information contained in any child
24 protective investigation report.

25 (j) A person who is the subject of a criminal history check
26 conducted in accordance with this section may request the state
27 police department to provide the person with a copy of any state or
28 national criminal history record information report concerning the
29 person.

30 SECTION 30. IC 31-27-6-3, AS ADDED BY P.L.145-2006,
31 SECTION 273, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The following constitute
33 sufficient grounds for denial of a license application:

34 (1) A determination by the department of child abuse or neglect
35 by:

36 (A) the applicant;

37 (B) an employee of the applicant who has direct contact, on a
38 regular and continuous basis, with children who are under the
39 direct supervision of the applicant; or

40 (C) a volunteer of the applicant who has direct contact, on a
41 regular and continuous basis, with children who are under the
42 direct supervision of the applicant.

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(2) A criminal conviction of the applicant, an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or the director or manager of a facility where children will be placed by the licensee for any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

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(d) Notwithstanding subsection (a)(2), if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) **The department may adopt rules to implement this section.**

SECTION 31. IC 31-27-6-15, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) A citizen review panel established under IC 31-25-2-20.

SECTION 32. IC 31-27-6-28, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on~~

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a regular and continuous basis, with children who are under the direct supervision of the licensee, or the director or manager of a facility where children will be placed by the licensee of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time

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1 after the licensee became aware of the conviction;
 2 the criminal conviction of the former employee or former
 3 volunteer does not constitute a sufficient basis for the revocation
 4 of a license.

5 (e) The department may adopt rules to implement this section.

6 SECTION 33. IC 31-33-8-13, AS AMENDED BY P.L.234-2005,
 7 SECTION 127, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2007]: Sec. 13. Whenever:

9 (1) an arrest relating to child abuse or neglect is made; the law
 10 enforcement agency that makes the arrest;

11 (2) criminal charges relating to child abuse or neglect are filed;
 12 the court in which the charges are filed;

13 (3) a child in need of services determination is made; the
 14 department; or

15 (4) a court approves a program of informal adjustment under
 16 IC 31-34-8 arising out of a child abuse or neglect report; the
 17 department; or

18 (5) a person who is accused of child abuse or neglect:

19 (A) enters into a services referral agreement; and

20 (B) fails to substantially comply with the terms of the services
 21 referral agreement;

22 under IC 31-33-13, the department;

23 shall transmit to the registry, not more than five (5) working days after
 24 the circumstances described by subdivisions (1) through (5) occur; the
 25 relevant a court finds that a child is a child in need of services on
 26 the basis of a child abuse or neglect report classified as substantiated
 27 under section 12 of this chapter, the department shall enter into the
 28 index of copy of the court's judgment.

29 SECTION 34. IC 31-33-18-2, AS AMENDED BY P.L.146-2006,
 30 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2007]: Sec. 2. The reports and other material described in
 32 section 1(a) of this chapter and the unredacted reports and other
 33 material described in section 1(b) of this chapter shall be made
 34 available only to the following:

35 (1) Persons authorized by this article.

36 (2) A legally mandated public or private child protective agency
 37 investigating a report of child abuse or neglect or treating a child
 38 or family that is the subject of a report or record.

39 (3) A police or other law enforcement agency, prosecuting
 40 attorney, or coroner in the case of the death of a child who is
 41 investigating a report of a child who may be a victim of child
 42 abuse or neglect.

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(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's

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purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

(ii) a person licensed to operate;

(iii) an employee of; or

(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

(20) A citizen review panel established under IC 31-25-2-20.

SECTION 35. IC 31-33-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 26. Child Protection Index

Sec. 1. (a) As used in this chapter, "child care provider" means a person who:

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(1) provides child care (as defined in IC 12-7-2-28.2) regardless of whether the person is required to be licensed or registered under IC 12-17.2; or

(2) is a child caring institution, a foster family home, a group home, or a child placing agency that is licensed or required to be licensed under IC 31-27.

(b) As used in this chapter, "index" refers to the child protection index established under section 2 of this chapter.

Sec. 2. The department shall establish and maintain a centralized, computerized child protection index to organize and access data regarding substantiated reports of child abuse and neglect that the department receives from throughout Indiana under this article.

Sec. 3. In addition to the equipment needed to establish, operate, and maintain the index, the index must include the following components:

(1) One (1) computer to be purchased for every two (2) child welfare caseworkers.

(2) Automated risk assessment in which a child welfare worker or supervisor is able to review a substantiated child abuse and neglect case to determine prior case history during the intake, investigation, assessment, and case management processes.

(3) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(4) The automated production of standard reports to enable the automated compilation of information gathered on forms used by child welfare workers to report the information and results of child abuse and neglect cases. The index must also provide for the automation of other data for planning and evaluation as determined by the department.

(5) The capability of same day notification and transfer of statistical information to the department regarding new and closed child abuse and neglect cases.

(6) The enabling of child welfare supervisors to review a child abuse or neglect determination at any point after the investigation is initially classified as substantiated abuse or neglect, to confirm the status of the case, and to allow for the consolidated management of cases.

(7) The capability for adjusting the index's programming at a later date if additional reporting requirements occur.

(8) A word processing capability to allow case notes to be

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recorded with each substantiated child abuse and neglect case.

Sec. 4. (a) In addition to the components described in section 3 of this chapter, the index must have the capability to maintain a case history file.

(b) Whenever a person enters a new child abuse or neglect report into the index, the index must have the capability to automatically search for reports that match the name of the:

(1) perpetrator;

(2) victim; or

(3) person who is legally responsible for the victim's welfare; with the persons named in the new report as described in this chapter.

(c) If the registry identifies a previous, substantiated report, the index must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If a previous, matching report is located, a case history extract must be made available to the assigned caseworker.

Sec. 5. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be maintained.

(b) The index must have a comprehensive system of limited access to information as follows:

(1) The index must be accessed only by the entry of an operator identification number and a password.

(2) A child welfare caseworker must be allowed to access only:

(A) cases that are assigned to the caseworker; and

(B) other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A).

(3) A child welfare supervisor may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker who reports to the supervisor.

(C) Other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A) or (B).

(D) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, child welfare managers, as designated by the department, may access any

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case, except restricted cases involving:

(A) a state employee; or

(B) the immediate family member of a state employee; who has access to the index. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the department as an administrator; and

(B) the administrator's level of access as determined by the department.

(6) Ancillary programs that may be designed for the index may not be executed in a manner that would circumvent the index's log-on security measures.

(7) Certain index functions must be accessible only to index operators with specified levels of authorization as determined by the department.

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the department.

Sec. 6. The department shall store data regarding child abuse or neglect reports in a manner that allows the data to be retrieved based on the following, if known:

(1) The child's name.

(2) The child's date of birth.

(3) The alleged perpetrator's name.

(4) The child's mother's name.

(5) The child's father's name.

(6) The name of a sibling of the child.

(7) The name of the child's guardian or custodian if applicable.

Sec. 7. The department may adopt rules under IC 4-22-2 to ensure that the confidentiality of and access to reports of child abuse or neglect are maintained as provided in this chapter.

Sec. 8. (a) This section does not apply to substantiated reports if a court has determined that a child is a child in need of services based on a report of child abuse or neglect that names the perpetrator as the individual who committed the child abuse or neglect.

(b) Not later than thirty (30) days after the department enters a substantiated child abuse or neglect report into the index, the

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department shall notify:

- (1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and
- (2) any person identified as the perpetrator, if other than the child's parent, guardian, or custodian;

that the department has entered the report into the index.

(c) The department shall state the following in a notice to the perpetrator of a substantiated report under subsection (b):

- (1) The report has been classified as substantiated.
- (2) The perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the perpetrator does not agree with the classification of the report unless a court is in the process of making a determination.
- (3) The perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the department not more than thirty (30) days after the notice is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.

(d) If the perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

Sec. 9. (a) Except as provided in sections 11 and 12 of this chapter, the department shall conduct an administrative hearing upon a request made under section 8 of this chapter.

(b) At the administrative hearing, the department must prove by a preponderance of credible evidence that the perpetrator is responsible for the child's abuse or neglect.

(c) During an administrative hearing under this section, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the technical rules of evidence. However, a determination may not be based solely on evidence that is hearsay.

(d) If the department fails to carry the burden of proof under subsection (b), the department shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 15 of this chapter.

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(e) The department shall maintain the confidentiality of an abuse or a neglect report during the administrative process.

(f) The administrative hearing shall be closed.

(g) The administrative files shall be closed and not disclosed to the public.

Sec. 10. The department shall administer the index in a manner that enables the department to do the following:

(1) Immediately identify and locate prior reports of child abuse or neglect through the use of the department's:

(A) computerized tracking system; and

(B) automated risk assessment system.

(2) Track steps in the investigative process to ensure compliance with all requirements for a report of child abuse and neglect.

(3) Maintain and produce aggregate statistical reports monitoring patterns of child abuse and neglect that the department shall make available to the public upon request.

(4) Serve as a resource for the evaluation, management, and planning of preventive and remedial services to children who have been subject to child abuse or neglect.

Sec. 11. (a) If a court having jurisdiction over a child in need of services case under IC 31-34 has determined or is anticipated to determine whether a report of suspected child abuse or neglect is substantiated, the determination of the court is binding.

(b) The administrative hearing under this chapter shall be stayed pending an anticipated action by the court.

(c) A person named as a perpetrator in a report of suspected child abuse or neglect is not entitled to an administrative hearing under this chapter if a court has determined that:

(1) the alleged child abuse or neglect did not occur; or

(2) the person was not a perpetrator of the alleged child abuse or neglect.

Sec. 12. (a) If criminal charges are filed against a perpetrator based on the same facts and circumstances on which the department classified a child abuse or neglect report as substantiated, any administrative hearing requested by the perpetrator under this chapter shall be stayed pending disposition of the criminal charges.

(b) If the criminal charges result in the conviction of the perpetrator and the facts that provided a necessary element for the conviction also provided the basis for the substantiated report under IC 31-33-8-12, the person named in the report as a

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perpetrator of child abuse or neglect is not entitled to an administrative hearing under this chapter.

Sec. 13. The department shall adopt rules under IC 4-22-2:

(1) to provide procedures not inconsistent with section 9 of this chapter by which any person identified as a perpetrator in a substantiated report of child abuse or neglect that is entered in the child protection index may request and obtain an administrative hearing as provided in this chapter;

(2) to establish procedures for the conduct of the administrative hearing; and

(3) to establish provisions for administrative review by the department of a proposed or approved substantiated report, before or after an administrative hearing is available or conducted.

Sec. 14. The department shall immediately amend or expunge from the index a substantiated report containing an inaccuracy arising from an administrative or a clerical error.

Sec. 15. (a) The department shall expunge a substantiated report contained within the index as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-7-6.5.

(2) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under this chapter; finds that the person was not a perpetrator of the child abuse or neglect that occurred.

(c) If subsection (a) does not apply, the department shall expunge the substantiated report not later than the date on which

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1 any child who is named in the report as a victim of child abuse or
2 neglect becomes twenty-four (24) years of age.

3 (d) The department shall expunge an indicated report contained
4 in the index at the time specified in IC 31-33-8-12.

5 (e) The department shall expunge an unsubstantiated report
6 contained in the index not later than six (6) months after the date
7 the report was entered into the index.

8 Sec. 16. (a) A person or an organization may have access to
9 information contained in the index as follows:

10 (1) A law enforcement agency may have access to a
11 substantiated report for purposes of investigating or
12 criminally prosecuting a person identified as a perpetrator of
13 child abuse or neglect.

14 (2) A child care provider, upon submitting a written consent
15 for release of information signed by an individual who:

16 (A) is employed by or who has applied for employment
17 with the child care provider;

18 (B) has volunteered to provide services to the child care
19 provider in a capacity that would place the individual in
20 direct contact, on a regular and continuous basis, with
21 children who are or will be under the direct supervision of
22 the child care provider; or

23 (C) is at least eighteen (18) years of age and resides in the
24 home of the child care provider;

25 may have access to any information relating to a
26 substantiated report of child abuse or neglect that names the
27 employee, applicant, volunteer, or household resident as the
28 perpetrator of child abuse or neglect.

29 (3) A person may have access to any information that is
30 contained in the index pertaining to the person, with
31 protection for the identity of:

32 (A) a person who reports the child abuse or neglect; and

33 (B) any other appropriate person.

34 (4) A person or an agency to whom child abuse and neglect
35 reports are available under IC 31-33-18 may have access to
36 information contained in the index.

37 (5) Representatives of the division of family resources
38 designated by the director of the division may have access to
39 and use any information relating to a substantiated report of
40 child abuse or neglect that would constitute a basis for denial
41 or revocation of a license for a child care center under
42 IC 12-17.2-4 or a child care home under IC 12-17.2-5.

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(6) Representatives of the department designated by the director may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child caring institution, foster family home, group home, or child placing agency under IC 31-27.

(7) Any representative of the department, a court having juvenile jurisdiction, and any party in a case under IC 31-34 or IC 31-37 may have access to and use any information relating to a substantiated report of child abuse or neglect in connection with a determination of an appropriate out of home placement for a child under any applicable provision of IC 31-34 or IC 31-37 that requires a criminal history check (as described in IC 31-9-2-22.5) concerning any person.

(8) The department shall provide any information contained in a substantiated report of child abuse or neglect that is included in the index to an authorized agency of another state that requests information concerning a prospective foster or adoptive parent, or any other adult living in the home of a prospective foster or adoptive parent, in accordance with 42 U.S.C. 671(a)(20)(C).

(9) The department shall transmit or provide to a national index of substantiated cases of child abuse or neglect established in accordance with 42 U.S.C. 16990:

(A) a copy of any substantiated report and related information entered in the index; and

(B) information concerning expungement or amendment of any substantiated report as provided in section 14 or 15 of this chapter.

(12) To determine the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3), the division of family resources may use information contained in the index concerning whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming an individual described in IC 12-17.2-3.5-4.1(a) as a perpetrator.

(b) Except as provided in this section or in rules adopted under subsection (c), the department may not disclose information used in connection with the department's activities under this section.

(c) The department shall adopt rules under IC 4-22-2 relating to the procedure for disclosure of information described in this section.

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1 **Sec. 17. (a) If a court grants a name change under IC 34-28-2**
 2 **(or IC 34-4-6 before its repeal) to a person:**

3 **(1) against whom an allegation of child abuse or neglect has**
 4 **been substantiated; and**

5 **(2) whose name is maintained within the index in accordance**
 6 **with this chapter;**

7 **the person must notify the department regarding the name change**
 8 **not more than ten (10) business days after the court enters a decree**
 9 **changing the person's name.**

10 **(b) The notice under subsection (a) must include a copy of the**
 11 **decree of the court that changes the name of the person, certified**
 12 **under the seal of the clerk of court.**

13 SECTION 36. IC 31-34-5-1 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.(a) If a child taken
 15 into custody under IC 31-34-2 is not released, a detention hearing shall
 16 be held not later than forty-eight (48) hours, excluding Saturdays,
 17 Sundays, and legal holidays, after the child is taken into custody. If the
 18 detention hearing is not held, the child shall be released. Notice of the
 19 time, place, and purpose of the detention hearing shall be given to the
 20 following:

21 (1) The child.

22 (2) The child's parent, guardian, or custodian if the person can be
 23 located.

24 **(b) A petition alleging that a child described in subsection (a) is**
 25 **a child in need of services shall be filed before a detention hearing**
 26 **is held for the child.**

27 SECTION 37. IC 31-34-5-1.5, AS AMENDED BY P.L.145-2006,
 28 SECTION 292, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2007]: Sec. 1.5. (a) This section applies to a
 30 child taken into custody under IC 31-34-2.5.

31 (b) The juvenile court shall hold a detention hearing after an
 32 emergency medical services provider takes custody of a child under
 33 IC 31-34-2.5. The court shall hold the detention hearing not later than
 34 forty-eight (48) hours after the emergency medical services provider
 35 takes the child into custody, excluding Saturdays, Sundays, and ~~legal~~
 36 ~~holidays.~~ **any day on which a legal holiday is observed for state**
 37 **employees as provided in IC 1-1-9. A petition alleging that a child**
 38 **described in subsection (a) is a child in need of services shall be**
 39 **filed before the detention hearing is held for the child.**

40 (c) The department may notify the emergency medical services
 41 provider that has taken emergency custody of a child under
 42 IC 31-34-2.5 of the detention hearing. The emergency medical services

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provider may be heard at the detention hearing.

SECTION 38. IC 31-34-10-2, AS AMENDED BY P.L.129-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

(1) The child.

(2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) A petition alleging that a child is a child in need of services shall be filed before a detention hearing concerning the child is held.

(e) If a detention hearing is held under IC 31-34-5, the initial hearing on the child in need of services petition shall be held at the same time as the detention hearing.

(f) The court may schedule an additional initial hearing on the child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(g) An additional initial hearing on the child in need of services petition shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition, unless the court has:

(1) granted an extension of time for extraordinary circumstances; and

(2) stated the extraordinary circumstance in a written court order.

SECTION 39. IC 31-34-21-7, AS AMENDED BY P.L.145-2006, SECTION 322, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's

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- parent, guardian, or custodian;
 whichever comes first; or
 (3) more often if ordered by the juvenile court.
- (b) The court shall:
- (1) make the determination and findings required by section 5 of this chapter;
 - (2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;
 - (3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision ~~(4)~~; (5);
 - (4) consult with the child, in an age appropriate manner as determined by the court, regarding the proposed permanency plan;**
 - ~~(4)~~ (5) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;
 - ~~(5)~~ (6) determine whether an existing permanency plan must be modified; and
 - ~~(6)~~ (7) examine procedural safeguards used by the department to protect parental rights.
- (c) **If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:**
- (1) send notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and**
 - (2) provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(c) of this chapter.**
- ~~(c)~~ (d) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:
- (1) direct the department to establish a permanency plan within

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thirty (30) days; or

(2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 40. IC 31-34-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "plan" means a **community regional services strategic** plan for ~~early intervention services~~ to achieve the purposes described in section 3 of this chapter.

SECTION 41. IC 31-34-24-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter, ~~"team"~~ **"regional services council"** means

(1) ~~an early intervention plan team~~ a **council** appointed as provided in section 4 of this chapter. ~~or~~

(2) ~~an existing organization described in section 5 of this chapter.~~

SECTION 42. IC 31-34-24-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. As used in this chapter, **"service region" means an area of Indiana consisting of one (1) or more counties.**

SECTION 43. IC 31-34-24-2.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.8. (a) **Each county shall participate in a regional services council established under this chapter for the service region in which the county is located.**

(b) **The department shall determine the county or counties that comprise each service region. A county may not be divided when establishing a service region.**

SECTION 44. IC 31-34-24-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. Each ~~county~~ **regional services council** shall develop a ~~community~~ **an annual regional services strategic** plan for ~~early intervention~~ that is tailored to provide services targeted to the individual needs of children who:

(1) have been either:

(A) adjudicated as, or alleged in a proceeding initiated under this article to be, children in need of services; or

(B) identified by the county office, based on information received from:

(i) a school;

(ii) a social service agency;

(iii) a court;

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- (iv) a probation department;
- (v) the child's parent or guardian; or
- (vi) an interested person in the community having knowledge of the child's environment and family circumstances;

and after an informal investigation, as substantially at risk of becoming children in need of services; and

- (2) have been referred to the county office by, or with the consent of, the child's parent, guardian, or custodian, for services to be provided through the plan based on an individual case plan for the child.

SECTION 45. IC 31-34-24-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. (a) Each regional services council shall, as determined by the director, supervise and administer the activities, duties, and responsibilities of the department specified in IC 31-25 through IC 31-40.**

(b) Each regional services council shall, according to guidelines and policies established by the department, approve and distribute funds to service providers from federal grants and state appropriations:

- (1) that the department allocates to the service region; and**
- (2) that are used to fund programs and services administered by the department.**

SECTION 46. IC 31-34-24-4, AS AMENDED BY P.L.145-2006, SECTION 326, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. (a) Before March 1, 1998, Each county regional services council shall establish a team to develop a plan as described in this chapter.**

(b) If the regional services council consists of at least three (3) counties, the team regional services council is composed of the following members each of whom serves at the pleasure of the member's appointing authority: from the service region:

- (1) The regional manager, who must be an employee of the department.**

(1) Two (2) Three (3) members appointed by the judge or who are judges of the courts with juvenile court one (1) of whom is a representative of the probation department. jurisdiction.

(2) Two (2) (3) Three (3) members appointed by the director who are directors of the a county office. as follows:

- (A) One (1) is a member of the staff of the department who provides child welfare services to the county office.**

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- 1 (B) One (1) is either:
- 2 (i) an interested resident of the county; or
- 3 (ii) a representative of a social service agency;
- 4 who knows of child welfare needs and services available to
- 5 residents of the county.
- 6 (3) One (1) member appointed by the superintendent of the largest
- 7 school corporation in the county.
- 8 (4) If:
- 9 (A) two (2) school corporations are located within the county;
- 10 one (1) member appointed by the superintendent of the second
- 11 largest school corporation in the county; or
- 12 (B) more than two (2) school corporations are located within
- 13 the county; one (1) member appointed by the county fiscal
- 14 body as a representative of school corporations other than the
- 15 largest school corporation in the county.
- 16 (5) (4) One (1) member appointed by the of a county fiscal body.
- 17 (6) One (1) member representing the community mental health
- 18 center (as defined under IC 12-7-2-38) serving the county;
- 19 appointed by the director of the community mental health center.
- 20 However; if more than one (1) community mental health center
- 21 serves the county; the member shall be appointed by the county
- 22 fiscal body.
- 23 (5) Two (2) family case manager supervisors.
- 24 (6) Two (2) family case managers assigned to a county office.
- 25 (7) One (1) licensed foster parent.
- 26 (8) One (1) guardian ad litem or court appointed special
- 27 advocate.
- 28 (7) (9) One (1) or more additional members appointed by the
- 29 chairperson of the team; from among interested or knowledgeable
- 30 residents of the community or representatives of agencies
- 31 providing social services to or for children in the county.
- 32 individual who:
- 33 (A) is at least sixteen (16) and less than twenty-five (25)
- 34 years of age;
- 35 (B) is a resident of the service region; and
- 36 (C) has received or is receiving services through funds
- 37 provided, directly or indirectly, through the department.
- 38 (c) If the service region of the regional services council consists
- 39 of one (1) or two (2) counties, the regional services council
- 40 members must include at least:
- 41 (1) two (2) family case manager supervisors; and
- 42 (2) one (1) person from each category listed in subsection (b),

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except for subsection (b)(5).

(d) Except as provided in section 4.3 of this chapter, the director shall appoint the members of the regional services council.

SECTION 47. IC 31-34-24-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.1. (a) The term for each member of a regional services council is two (2) years. New terms begin on July 1 of each odd-numbered year.

(b) Except for the regional manager and the juvenile court judges, a member may not be appointed to a regional services council for more than two (2) consecutive terms.

(c) If a member of a regional services council ceases to meet the qualifications for the member's position on the council, the member's term of office terminates and the member's office becomes vacant.

(d) If there is a vacancy on a regional services council, the appointing authority who appointed the member whose position is vacant shall appoint an individual to fill the vacancy. The member appointed under this subsection shall fill the vacancy for the remainder of the unexpired term.

(e) If the service region of a regional services council contains more than one (1) county office, the members appointed under section 4(b)(3) of this chapter shall be appointed on a rotating basis so that each county office in the service region is represented on the regional services council through successive appointments.

SECTION 48. IC 31-34-24-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.3. (a) If the service region of a regional services council contains more than three (3) judges of courts with juvenile jurisdiction, all the judges of courts with juvenile court jurisdiction in the region shall nominate the members of the regional services council appointed under section 4(b)(2) of this chapter. However, if the service region contains not more than three (3) judges of courts with juvenile jurisdiction, each judge of a court with juvenile jurisdiction in the region is a member of the regional services council.

(b) The member appointed under section 4(b)(4) of this chapter must be the presiding officer of the county fiscal body or a member of the county fiscal body who is appointed by the presiding officer. If the service region contains more than one (1) county, the member appointed under section 4(b)(4) of this chapter from each county in the service region shall serve a single two (2) year term.

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The order of the member's terms must begin with the county with the largest population and succeed to each county in descending population order. After the member of the county with the smallest population has served, the order of counties must repeat, beginning with the county with the largest population.

(c) When appointing members of the regional services council under section 4(b)(7) through 4(b)(9) of this chapter, the director shall consider the recommendations from any organization or association that represents the category of individual specified in the applicable subdivision.

SECTION 49. IC 31-34-24-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. A majority of the members of a regional services council constitutes a quorum. The affirmative vote of a majority of the council present is required to take any official action.**

SECTION 50. IC 31-34-24-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The ~~county~~ **director regional manager** shall convene an organizational meeting of the members of the ~~team~~ **regional services council** appointed under section 4 of this chapter.

(b) The ~~county~~ **director regional manager** shall serve as the chairperson of the ~~team~~ **regional services council**. The ~~team~~ **regional services council** shall select one (1) of its members as vice chairperson.

SECTION 51. IC 31-34-24-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. Before January 1 of each year, ~~the team~~ **a regional services council** shall prepare and submit to the judges having juvenile jurisdiction in the ~~county~~ **regional services council's service region** the ~~team's~~ **regional services council's** plan for review and comment. ~~The Each~~ judge shall submit any comments to the chairperson not more than fifteen (15) calendar days after receiving the plan. The ~~team~~ **regional services council** shall before January 25 of each year transmit a copy of the plan, including any comments from the judges, to:

(1) the director; and

(2) ~~the state superintendent of public instruction.~~

(2)each county fiscal body in the service region.

SECTION 52. IC 31-34-24-8, AS AMENDED BY P.L.145-2006, SECTION 327, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. In preparing the plan ~~the team~~ **under section 7 of this chapter, a regional services council** shall

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review and consider existing publicly and privately funded programs that are available or that could be made available in the ~~county~~ **regional services council's service region** to provide supportive services to or for the benefit of children described in section 3 of this chapter without removing the child from the family home, including programs funded through the following:

- (1) Title IV-B of the Social Security Act (42 U.S.C. 620 et seq.).
- (2) Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.).
- (3) Title XX of the Social Security Act (42 U.S.C. 1397 et seq.).
- (4) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5106 et seq.).
- (5) Community corrections programs under IC 11-12.
- (6) Special education programs under IC 20-35-6-2.
- (7) All programs designed to prevent child abuse, neglect, or delinquency, or to enhance child welfare and family preservation administered by, or through funding provided by, the department, county offices, prosecutors, or juvenile courts, including programs funded under IC 12-19-7 and IC 31-40.
- (8) Probation user's fees under IC 31-40-2-1.
- (9) Child advocacy fund under IC 12-17-17.

SECTION 53. IC 31-34-24-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. ~~The team A~~ **regional services council** may ~~adopt as~~ **include in** its plan ~~an existing plan a program~~ for provision of family preservation services as ~~defined in IC 12-7-2-82.3;~~ that:

- (1) ~~is or will be~~ in effect in the ~~county;~~ **regional services council's service region;**
- (2) includes services for a child less than eighteen (18) years of age who reasonably may be expected to face out of home placement under IC 31-34 or IC 31-37 as a result of:
 - (A) ~~dependency;~~ abuse or neglect;
 - (B) emotional disturbance; or
 - (C) delinquency adjudication; and
- (3) addresses all of the objectives ~~described in this section:~~ **of family preservation services.**

SECTION 54. IC 31-34-24-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. ~~The director or the state superintendent of public instruction A county fiscal body~~ may, not later than thirty (30) days after receiving the plan, transmit to the ~~team regional services council~~ and the ~~county fiscal body director~~ any comments, including recommendations for modification of the plan, that the ~~director or the state superintendent of public instruction~~ **county**

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fiscal body considers appropriate.

SECTION 55. IC 31-34-24-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. Not later than sixty (60) days after receiving the plan, the ~~county fiscal body~~ **director** shall do one (1) of the following:

(1) Approve the plan as submitted by the ~~team~~ **regional services council**.

(2) ~~Approve~~ **Return** the plan **to the regional services council** with **suggested** amendments, modifications, or revisions. ~~adopted by the county fiscal body~~.

(3) Return the plan to the ~~team~~ **regional services council** with directions concerning:

(A) subjects for further study and reconsideration; and

(B) resubmission of a revised plan.

SECTION 56. IC 31-34-24-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) Upon receiving the initial plan and each revised or updated plan, ~~the each~~ county fiscal body **in the service region** shall consider the plan in developing the family and children's fund budget.

(b) The county fiscal body may appropriate from the family and children's fund any amounts necessary to provide funding to implement the plan.

SECTION 57. IC 31-34-24-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) ~~The team~~ **A regional services council** shall meet at least one (1) time each year to do the following:

(1) Develop, review, or revise a strategy **for implementation through the plan** that identifies:

(A) the manner in which prevention and early intervention services will be provided or improved;

(B) how local collaboration will improve children's services; and

(C) how different funds can be used to serve children and families more effectively.

(2) Reorganize as needed and select its vice chairperson for the ensuing year.

(3) Review the implementation of the plan and prepare revisions, additions, or updates of the plan that the ~~team~~ **regional services council** considers necessary or appropriate to improve the quality and efficiency of early intervention child welfare services provided in accordance with the plan.

(4) Prepare and submit to ~~the each~~ county fiscal body a report on

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the operations of the plan during the preceding year and a revised and updated plan for the ensuing year.

(b) The chairperson or vice chairperson of ~~the team or the county fiscal body~~ **a regional services council** may convene any additional meetings of the ~~team~~ **regional services council** that are, in the chairperson's or vice chairperson's opinion, necessary or appropriate.

SECTION 58. IC 31-34-24-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. ~~(a) The team~~ **A regional services council** or the ~~county fiscal body~~ **director** shall transmit copies of the plan, each annual report, and each revised plan to the following **in the regional services council's service region**:

~~(1) The director.~~

~~(2) The state superintendent of public instruction.~~

~~(3) The~~ **(1) Each** county office **in the service region.**

~~(4) The~~ **(2) Each** juvenile court **in the service region.**

~~(5) (3) The superintendent of each public school corporation in that includes any part of the county.~~ **service region.**

~~(6) The local step ahead council.~~

~~(7) Any public or private agency that:~~

~~(A) provides services to families and children in the county that requests information about the plan; or~~

~~(B) the team has identified as a provider of services relevant to the plan.~~

(b) A regional services council shall post a copy of each plan, annual report, or revised plan transmitted under subsection (a) to its web site.

SECTION 59. IC 31-34-24-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. ~~The team~~ **A regional services council** or the ~~county fiscal body~~ **in the regional services council's service region** shall publicize to residents of the **each county in the service region** the existence and availability of the plan.

SECTION 60. IC 31-34-24-18, AS AMENDED BY P.L.234-2005, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The

~~(1) juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8 and~~

~~(2) department of child services, in proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13;~~ shall consider and use to the extent feasible any available services described in ~~an early intervention~~ **a plan approved under this chapter.**

SECTION 61. IC 31-34-24-20 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2007]: **Sec. 20. The department may adopt**
 3 **rules under IC 4-22-2 to administer this chapter.**

4 SECTION 62. THE FOLLOWING ARE REPEALED [EFFECTIVE
 5 JULY 1, 2007]: IC 31-9-2-128; IC 31-33-12; IC 31-33-13;
 6 IC 31-33-17; IC 31-33-19; IC 31-33-20; IC 31-34-24-5;
 7 IC 31-34-24-17; IC 31-37-24; IC 31-34-8-4.

8 SECTION 63. [EFFECTIVE JULY 1, 2007] (a) **Notwithstanding**
 9 **IC 31-33-26-13 and IC 31-33-26-16(c), both as added by this act,**
 10 **the department of child services is not required to adopt rules**
 11 **described under those statutes until July 1, 2011.**

12 (b) **Notwithstanding IC 31-33-26-13, as added by this act, the**
 13 **department of child services shall adopt written policies governing**
 14 **administrative reviews and hearings relating to substantiated**
 15 **determinations of child abuse or neglect under IC 31-33-26-9, as**
 16 **added by this act, including the availability of judicial review of**
 17 **final decisions of the department of child services under**
 18 **IC 4-21.5-5. Rules adopted by the department under**
 19 **IC 31-33-26-13, as added by this act, supersede written policies**
 20 **governing the same subject.**

21 (c) **Notwithstanding IC 31-33-26-16(c), as added by this act, the**
 22 **department of child services shall adopt written policies governing**
 23 **the disclosure of information under IC 31-33-26-16, as added by**
 24 **this act. Rules adopted by the department of child services**
 25 **governing the disclosure of information under IC 31-33-26-16, as**
 26 **added by this act, supersede written policies governing the same**
 27 **subject.**

28 (d) **This SECTION expires July 2, 2011.**

29 SECTION 64. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 328, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 6 and 7, begin a new line block indented and insert:

"(4) A person for whom a national criminal history background check is required for purposes of placement of a child in a foster family home, a prospective adoptive home, or the home of a relative or other caretaker, or for purposes of a report concerning an adoption as required by IC 31-19-8."

Page 2, line 19, delete ":".

Page 2, line 20, strike "(1)".

Page 2, line 20, delete ";" and insert ",".

Page 2, line 21, after "or" insert **"that"**.

Page 2, line 22, strike "(2)".

Run in lines 19 through 24.

Page 2, line 27, strike "applicant" and insert **"person who is the subject of a request"**.

Page 2, line 27, delete "of" and insert **"of:**

(1)".

Page 2, line 28, after "IC 20-26-5-11" insert ";

(2) in the case of a foster family home, an offense described in IC 31-27-4-13(a);

(3) in the case of a prospective adoptive home, an offense described in IC 31-19-11-1(c);

(4) any other felony; or

(5) any misdemeanor;".

Page 2, line 28, begin a new line blocked left beginning with "and".

Page 4, line 16, after "age" insert **"and who is"**.

Page 4, line 21, reset in roman "or".

Page 4, strike lines 22 through 27.

Page 4, line 28, strike "IC 31-27;"

Page 4, line 28, delete "or".

Page 4, line 29, delete "(iii)" and insert **"(ii)"**.

Page 4, line 33, strike "national".

Page 4, line 34, after "check" insert **"of both national and state records data bases"**.

Page 4, line 35, after "with" insert **"IC 10-13-3-27 and"**.

Page 4, line 39, strike "and".

Page 5, line 1, after "resided" insert **"within the previous five (5)"**

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years; and

(3) request information concerning any substantiated report of child abuse or neglect relating to a person described in subdivision (1)(A) that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible pursuant to 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.

SECTION 6. IC 31-9-2-26, AS AMENDED BY P.L.145-2006, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. "County office", for purposes of ~~IC 31-25 through IC 31-40~~ IC 31 and the juvenile law, refers to a county office of family and children; **the department of child services established by IC 31-25-1-1.**"

Page 5, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 9. IC 31-9-2-58.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2."

Page 6, line 6, strike "(a)".

Page 6, line 9, strike "(b) "Registry", for purposes of IC 31-33, refers to the child".

Page 6, line 10, delete "protection".

Page 6, line 10, strike "registry established by the department under".

Page 6, delete line 11.

Page 10, line 11, after "volunteer" insert ". **However, a national fingerprint based criminal history background check defined in IC 31-9-2-22.5(1)(B) and required under subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer.**"

Page 10, line 12, delete "However, if" and insert "If".

Page 10, line 18, after "(i)" insert "**An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting national fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or**

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licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant or licensee's operations.

(j)".

Page 10, line 25, delete "(j)" and insert "(k)".

Page 11, line 1, strike "an employee of the".

Page 11, strike lines 2 through 5.

Page 11, line 6, strike "the direct supervision of the applicant" and insert "**or the director or manager of a facility where children will be placed by the applicant**".

Page 11, line 19, delete "licensee" and insert "applicant".

Page 11, line 23, after "(b)" insert "**An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

- (1) A felony described in IC 31-27-4-13(a); or
- (2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying

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conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d)".

Page 11, line 24, delete "is" and insert "**could be**".

Page 11, line 29, strike "require" and insert "**constitute a sufficient basis for the**".

Page 11, between lines 29 and 30, begin a new paragraph and insert: "**(e) The department may adopt rules to implement this section**".

Page 12, line 10, after "Sec. 31." insert "**(a)**".

Page 12, line 21, strike "an employee of the".

Page 12, strike lines 22 through 25.

Page 12, line 26, strike "the direct supervision of the licensee" and insert "**or the director or manager of a facility where children will be placed by the licensee**".

Page 12, after line 42, begin a new paragraph and insert:

"(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former

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volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section."

Page 13, line 30, reset in roman "household members who are at least fourteen (14)".

Page 13, line 31, reset in roman "years of age".

Page 13, line 31, delete "persons at least eighteen (18) years of age residing" and insert ".".

Page 13, delete lines 32 through 35.

Page 14, line 20, delete "A" and insert **"With the exception of a national fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1), a"**.

Page 14, line 25, after "(e)(2)" insert **"A national fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer."**

Page 14, line 32, after "(j)" insert **"An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (e)(3) during the period after the process of requesting national fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (e)(3), the applicant or licensee shall consider the following:**

- (1) The training time required by an employee or a volunteer.**
- (2) The safety and security of the children under the supervision of the applicant or licensee.**
- (3) The safety and security of the other staff and volunteers**

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working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant or licensee's operations.

(k)".

Page 14, line 39, delete "(k)" and insert "(l)".

Page 15, line 17, strike "an employee of the".

Page 15, strike lines 18 through 19.

Page 15, line 20, strike "applicant, or a volunteer".

Page 15, line 20, delete "or person residing in the residence".

Page 15, line 20, strike "of".

Page 15, strike lines 21 through 22.

Page 15, line 23, strike "applicant,".

Page 15, line 40, after "(b)" insert **"An application for a license may also be denied if an adult who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d)".

Page 15, line 41, strike "is" and insert **"could be"**.

Page 16, line 6, strike "require" and insert **"constitute a sufficient basis for the"**.

Page 16, between lines 7 and 8, begin a new paragraph and insert: **"(e) The department may adopt rules to implement this section"**.

Page 16, line 30, after "32." insert **"(a)"**.

Page 17, line 1, strike "an employee of the".

Page 17, strike lines 2 through 5.

Page 17, line 6, strike "direct supervision of the applicant,".

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Page 17, line 6, delete "or a person at least eighteen".

Page 17, line 7, delete "18 years of age who is residing in the home of the licensee".

Page 17, line 7, strike "of" and insert "**for**".

Page 17, between lines 20 and 21 begin a new paragraph and insert:

"(b) A license may also be revoked if an adult who resides in the residence of the licensee or an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section."

Page 17, delete lines 38 through 42, begin a new paragraph and insert:

"(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall ~~(1)~~ conduct a criminal history check of the following:

~~(A)~~ (1) Each individual who is an applicant. ~~and~~

~~(B)~~ (2) The director or manager of a facility where children will be placed. ~~and~~".

Page 18, strike lines 1 through 2.

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Page 18, between lines 2 and 3, begin a new line block indented and insert:

"(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant."

Page 18, line 3, strike "An" and insert **"If the applicant conducts a criminal history check under subsection (d), the"**.

Page 18, line 3, after "shall" insert ":".

Page 18, line 3, strike "do the following:".

Page 18, strike lines 4 through 9.

Page 18, line 10, strike "(2)" and insert **"(1)"**.

Page 18, line 10, delete "Maintain" and insert "maintain".

Page 18, line 11, delete "the applicant" and insert **"it"**.

Page 18, line 12, delete "." and insert **"; and"**.

Page 18, line 13, delete "(3) Submit" and insert **"(2) submit"**.

Page 18, line 14, delete "who is the subject" and insert **"described in subsection (d)(1) through (d)(3)."**

Page 18, line 15, delete "of a criminal history check." begin a new paragraph and insert:

"(f)".

Page 18, line 16, after "applicant" insert **"under subsection (d)"**.

Page 18, delete lines 18 through 34, begin a new line block indented and insert:

"(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information it receives concerning a person described in subsection (d)."

Page 18, line 35, delete "(f)" and insert **"(g)"**.

Page 18, line 35, delete "(g)" and insert **"(h)"**.

Page 18, line 36, delete "under this section" and insert **"described in subsection (d)"**.

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Page 18, line 38, delete "(g)" and insert "(h)".

Page 18, line 38, delete "this section" and insert "**subdivision (d)(2) or (d)(3)**".

Page 18, line 40, after "employed" insert "**or assigned as a volunteer**".

Page 18, line 40, delete "this section" and insert "**subsection (d)(3). However, a national fingerprint based criminal history background check defined in IC 31-9-2-22.5(1)(B) and required under subsection (e) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (e)**".

Page 18, line 40, delete "However, if" and insert "**If**".

Page 19, line 4, delete "(h)" and insert "**(i) An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting national fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:**

- (1) The training time required by an employee or a volunteer.**
- (2) The safety and security of the children under the supervision of the applicant or licensee.**
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.**
- (4) The staffing concerns of the applicant or licensee.**
- (5) Any other factor relating to the safety and security of the applicant or licensee's operations.**

(j)".

Page 19, line 11, delete "(i)" and insert "**(k)**".

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Page 19, line 39, strike "an employee of the".

Page 19, strike lines 40 through 42.

Page 20, strike line 1.

Page 20, line 2, strike "the direct supervision of the applicant" and insert **"or the director or manager of a facility where children will be placed by the applicant"**.

Page 20, line 15, delete "licensee" and insert **"applicant"**.

Page 20, line 19, after "(b)" insert **"An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d)".

Page 20, line 20, strike "is" and insert **"could be"**.

Page 20, line 25, strike "require" and insert **"constitute a sufficient basis for the"**.

Page 20, between lines 25 and 26, begin a new paragraph and insert: **"(e) The department may adopt rules to implement this section."**

Page 21, line 5, after "31." insert **"(a)"**.

Page 21, line 16, strike "an employee of the".

Page 21, strike lines 17 through 20.

Page 21, line 21, strike "the direct supervision of the licensee" and insert **"or the director or manager of a facility where children will be placed by the licensee"**.

Page 21, between lines 37 and 38, begin a new paragraph and insert: **"(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the**

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licensee has been convicted of any of the following:

- (1) A felony described in IC 31-27-4-13(a).
- (2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying conviction.
- (2) The severity, nature, and circumstances of the offense.
- (3) Evidence of rehabilitation.
- (4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

- (1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and
- (2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section."

Page 22, line 2, strike "shall" and insert "must".

Page 22, delete lines 13 through 17, begin a new paragraph and insert:

"(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall ~~(1)~~ conduct a criminal history check of the following:

- ~~(A)~~ (1) Each individual who is an applicant. ~~and~~
- ~~(B)~~ (2) The director or manager of a facility where children will be placed. ~~and~~".

Page 22, strike lines 18 through 19.

Page 22, between lines 19 and 20, begin a new line block indented and insert:

"(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant."

Page 22, delete lines 20 through 30, begin a new paragraph and insert:

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"(e) ~~Am~~ If the applicant conducts a criminal history check under subsection (d), the applicant shall: do the following:

(1) Conduct a criminal history check of the applicant's:

(A) employees; and

(B) volunteers;

who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.

(2) (1) maintain records of each the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3)."

Page 22, strike lines 31 through 33.

Page 22, between lines 33 and 34, begin a new paragraph and insert:

"(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check required under subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer in a position described in subsection (d)(3). However, if a person described in this subsection has been the subject of a criminal history check (as

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described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required."

Page 22, line 34, strike "(g)" and insert "(i)".

Page 22, between lines 40 and 41, begin a new paragraph and insert:

"(j) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history record information report concerning the person."

Page 23, line 12, strike "an employee of the".

Page 23, strike lines 13 through 16.

Page 23, line 17, strike "the direct supervision of the licensee" and insert **"or the director or manager of a facility where children will be placed by the licensee"**.

Page 23, line 30, delete "licensee".

Page 23, line 34, after "(b)" insert **"An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d)".

Page 23, line 35, delete "is" and insert **"could be"**.

Page 23, line 40, strike "require" and insert **"constitute a sufficient basis for the"**.

Page 23, between lines 40 and 41, begin a new paragraph and insert:

"(e) The department may adopt rules to implement this section".

Page 24, line 17, after "28." insert **"(a)"**.

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Page 24, line 28, strike "an employee of the".

Page 24, strike lines 29 through 32.

Page 24, line 33, strike "the direct supervision of the licensee" and insert **"or the director or manager of a facility where children will be placed by the licensee"**.

Page 25, between lines 7 and 8, begin a new paragraph and insert:

"(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section."

Page 25, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 33. IC 31-33-8-13, AS AMENDED BY P.L.234-2005, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. Whenever:

(1) an arrest relating to child abuse or neglect is made; the law enforcement agency that makes the arrest;

(2) criminal charges relating to child abuse or neglect are filed; the court in which the charges are filed;

(3) a child in need of services determination is made; the

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department; or

(4) a court approves a program of informal adjustment under IC 31-34-8 arising out of a child abuse or neglect report; the department; or

(5) a person who is accused of child abuse or neglect:

(A) enters into a services referral agreement; and

(B) fails to substantially comply with the terms of the services referral agreement;

under IC 31-33-13, the department;

shall transmit to the registry, not more than five (5) working days after the circumstances described by subdivisions (1) through (5) occur; the relevant a court finds that a child is a child in need of services on the basis of a child abuse or neglect report classified as substantiated under section 12 of this chapter, the department shall enter into the index of copy of the court's judgment."

Page 27, line 19, delete "Registry" and insert "**Index**".

Page 27, line 28, delete ""registry"" and insert ""**index**"".

Page 27, line 29, delete "registry" and insert "**index**".

Page 27, line 31, delete "registry" and insert "**index**".

Page 27, line 36, delete "registry, the registry" and insert "**index, the index**".

Page 28, line 8, delete "registry" and insert "**index**".

Page 28, line 19, delete "registry's" and insert "**index's**".

Page 28, line 24, delete "registry" and insert "**index**".

Page 28, line 27, delete "registry, the registry" and insert "**index, the index**".

Page 28, line 35, delete "registry" and insert "**index**".

Page 28, line 42, delete "registry" and insert "**index**".

Page 29, line 1, delete "registry" and insert "**index**".

Page 29, line 3, delete "registry" and insert "**index**".

Page 29, line 25, delete "registry." and insert "**index.**".

Page 29, line 34, delete "registry" and insert "**index**".

Page 29, line 36, delete "registry's" and insert "**index's**".

Page 29, line 37, delete "registry" and insert "**index**".

Page 29, line 38, delete "registry" and insert "**index**".

Page 30, line 21, delete "registry," and insert "**index,**".

Page 30, line 28, delete "registry." and insert "**index.**".

Page 30, line 39, delete "the perpetrator receives".

Page 30, line 39, after "notice" insert "**is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.**".

Page 31, line 19, after "under" insert "**section 15 of**".

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Page 31, line 20, delete "The" and insert "**The department shall maintain the**".

Page 31, line 20, delete "must, to".

Page 31, line 21, delete "the extent possible, be maintained".

Page 31, line 26, delete "registry and insert **"index"**".

Page 32, line 6, delete "whose report has been reviewed by a court".

Page 32, line 7, after "chapter" insert "**if a court has determined that:**

(1) the alleged child abuse or neglect did not occur; or

(2) the person was not a perpetrator of the alleged child abuse or neglect".

Page 32, line 24, delete "registry" and insert **"index"**.

Page 32, line 33, delete "registry" and insert **"index"**.

Page 32, line 36, delete "registry" and insert **"index"**.

Page 33, between lines 7 and 8, begin a new paragraph and insert:

"(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under this chapter; finds that the person was not a perpetrator of the child abuse or neglect that occurred."

Page 33, line 8, delete "(b)" and insert **"(c)"**.

Page 33, line 12, delete "(c)" and insert **"(d)"**.

Page 33, line 13, delete "registry" and insert **"index"**.

Page 33, line 14, delete "(d)" and insert **"(e)"**.

Page 33, line 15, delete "registry" and insert **"index"**.

Page 33, line 16, delete "registry." and insert **"index."**.

Page 33, line 18, delete "registry" and insert **"index"**.

Page 33, delete lines 23 through 42.

Page 34, delete lines 1 through 4.

Page 34, line 5, delete "(4)" and insert **"(2)"**.

Page 34, line 20, delete "(5)" and insert **"(3)"**.

Page 34, line 21, delete "registry" and insert **"index"**.

Page 34, line 25, delete "(6)" and insert **"(4)"**.

Page 34, line 27, delete "registry." and insert **"index."**.

Page 34, line 28, delete "(7)" and insert **"(5)"**.

Page 34, line 34, delete "(8)" and insert **"(6)"**.

Page 34, line 40, delete "(9)" and insert **"(7)"**.

Page 35, line 6, delete "(10)" and insert **"(8)"**.

Page 35, line 8, delete "registry" and insert **"index"**.

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Page 35, line 13, delete "(11)" and insert "(9)".

Page 35, line 14, delete "registry" and insert "index".

Page 35, line 17, delete "registry;" and insert "index;".

Page 35, delete lines 21 through 34 and insert:

"(12) To determine the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3), the division of family resources may use information contained in the index concerning whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming an individual described in IC 12-17.2-3.5-4.1(a) as a perpetrator."

Page 36, line 3, delete "registry" and insert "index".

Page 36, line 33, strike "legal" and insert **"any day on which a legal holiday is observed for state employees as provided in IC 1-1-9."**

Page 36, line 34, strike "holidays."

Page 36, delete lines 41 through 42.

Page 37, delete lines 1 through 13.

Page 47, line 19, after "IC 31-37-24" insert "; IC 31-34-8-4".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 328 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 328 be amended to read as follows:

Page 8, line 10, delete "may" and insert **"shall"**.

Page 8, line 15, after "subsection" insert **"if the existing entity has the capacity to satisfy the responsibilities described in subsection (c) and the department ensures that the existing entity will satisfy the responsibilities described in subsection (c)"**.

(Reference is to SB 328 as printed February 16, 2007.)

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